

**FILED**

**APR 30 2018**

Clerk, U.S Courts  
District Of Montana  
Missoula Division

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION

INCARNACION L. SPEAKS,

Plaintiff,

vs.

MAZDA MOTOR CORPORATION,  
and MAZDA MOTOR OF AMERICA,  
INC., d/b/a MAZDA NORTH  
AMERICA OPERATIONS,

Defendants.

CV 14-25-M-DWM

ORDER

The Court having initially reviewed the parties' proposed Final Pretrial Order,

IT IS ORDERED that Plaintiff's statement of the Elements of Liability (para. V) is unacceptable. (Doc. 267 at 9.) It is not sufficient to merely cite the relevant Montana statute and state that the elements "are set forth in controlling Montana Supreme Court decisions." The parties shall submit an amended final pretrial order on or before May 2, 2018, that outlines the elements for liability in a defective design case.

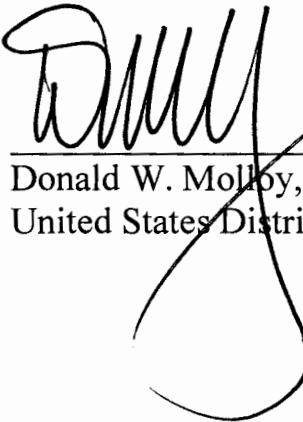
IT IS FURTHER ORDERED that the amended final pretrial order STRIKE the second paragraph of Defendant's Statement (C), which provides:

Plaintiff certainly did misuse the seatbelt and she was negligent in doing so. The law preventing Defendants from asserting these concepts as defenses means only that they are not available as legal defenses. It does not mean, as a matter of law, that Plaintiff did not misuse the seatbelt or act negligently. This is an important distinction and the jury should not be misled about the effect of Montana law on this issue.

(Doc. 267 at 6.) This paragraph is a misstatement of the law and defense counsel is cautioned that any suggestion along these lines made during trial will in all likelihood result in a mistrial.

IT IS FURTHER ORDERED that Plaintiff shall file a proposed verdict form on or before May 2, 2018.

DATED this 30<sup>th</sup> day of April, 2018.

  
Donald W. Molloy, District Judge  
United States District Court